



**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

THOMAS GLADNEY, §
Plaintiff, §
§
vs. § CIVIL ACTION 3:18-666-MGL
§
ALBERT HUMPHREY, M.D., §
Defendants. §

**ORDER ADOPTING THE REPORT AND RECOMMENDATION
AND DISMISSING THIS ACTION WITHOUT PREJUDICE
AND WITHOUT ISSUANCE AND SERVICE OF PROCESS**

Plaintiff Thomas Gladney, who is proceeding pro se, filed this as a personal injury/medical malpractice action. The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting the complaint be dismissed without prejudice and without issuance and service of process. The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on April 5, 2018. On, April 17, 2018, the Clerk entered Gladney's objections. The Court has carefully reviewed the objections, but holds them to be without merit. Therefore, it will enter judgment accordingly.

The Magistrate Judge states in the Report the Court lacks jurisdiction over the matter inasmuch as (1) Gladney "alleges he and defendant Dr. Humphrey are both citizens of South Carolina[,]" Report 5, and (2) he has failed to allege "a claim arising under the Constitution or a federal statute," *Id.* The Court agrees. Gladney's conclusory statement "the Court had jurisdiction[,]" Objections 1, is an insufficient basis to make it so.

After a thorough review of the Report and the record in this case pursuant to the standard set forth above, the Court overrules the objections, adopts the Report, and incorporates it herein. Therefore, it is the judgment of the Court this action is **DISMISSED WITHOUT PREJUDICE** and without issuance and service of process.

IT IS SO ORDERED.

Signed this 18th day of April, 2018, in Columbia, South Carolina.

s/ Mary Geiger Lewis
MARY GEIGER LEWIS
UNITED STATES DISTRICT JUDGE

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this Order within thirty days from the date of this Order pursuant to the Federal Rules of Appellate Procedure.